

## **How Greens kill off industry by stealth**

By Alan Oxley, Quadrant Online, 31 March 2016

Until they are stopped, the Greens will use regulatory stealth to stymie growth and throttle industries they want to see brought down. The Illegal Logging Prohibition Act is one of their nastiest and handiest tools, so why hasn't the Coalition done away with it?

While there has probably never been a stronger sentiment in the Liberal National Party (LNP) government that environmental policy is off the rails, little has been done in its two years in office to repeal or amend the raft of legal constraints which now purport to protect the environment. Reversal of excessive restrictions on agricultural chemicals levels is about all the LNP Government has achieved.

On the policy front, provisions to promote renewable energy were introduced and justified as a less costly way – than imposition of a carbon tax – to reduce emissions of greenhouse gases. There was no international legal obligation to do this. Restrictions imposed by Labor on access to water in the Murray Darling basin, where agricultural production has shrunk, also remain unaddressed.

### **The activists have a far more formidable strategy**

Following LNP backbench agitation, a parliamentary enquiry into tax exemption privileges of environmental groups is underway. While backers think it will help curb green rorts (why should Greenpeace have that privilege when part of its modus operandi is to damage property and assets?) it does not strike at the heart of the problem. The activists have a far more formidable strategy. That has to be tackled.

They and the Greens have perceived something which parliamentarians in the mainstream parties disregard, some wilfully, but most by default. The formal duty of parliamentarians is to legislate. Under the Constitution the Senate is supposed to be a house of review. In practice it isn't. Regulations are rarely scrutinized. It's a Greens hunting ground.

As well, wily politicians can and do slip new laws into Parliament and delay the tabling of regulations. Sometimes regulations are never produced. Both sides of politics have done this. The regulations are all-important. They define how laws are to be interpreted. The Greens know this.

### **They love regulation**

They love regulation. It can be used to create legal hurdles to delay and increase the costs of projects to which they object. They also understand the most powerful environmental tool is to arm a regulator with the widest discretion to rule compliance. It sits alongside vague law. The looser its terms, the wider is the scope for the regulator to rule.

They work relentlessly to put this broad scope into law where they can. The Federal Environmental Protection and Biodiversity Conservation (EPBC) Act, for example, gives the Environment Minister very wide discretion. This is little understood. Policies can be rejected if the Minister considers there is a “risk” for which no criteria are set. No wonder WWF rate it the best environmental regulation in the world.

Yet even that looks half reasonable when set against what is possibly the most ridiculous piece of supposedly environmental legislation ever adopted by Parliament. This is the Illegal Logging Prohibition Act. It makes it an offence to import a timber product unless the importer has records demonstrating laborious and costly efforts to ascertain in the country of origin if the product is not or does not contain illegally logged timber. Yet there is no record illegal timber has ever entered Australia.

The Department of Agriculture, which produced the equivalent of 600 pages of information for importers to digest how to comply with the new law, has proudly associated Australia with EU and US policies to restrict expansion of production of food in forested areas. The US and the EU are substantial importers of timber. Even then the best estimate (guess) how much of their imports is illegally sourced is 9%. In comparison, Australia is a small timber importer. A threat by it to block imports will have no impact. It simply makes Australia a choir boy in a US/EU strategy concocted by anti-forestry activists. Furthermore, the EU and US campaign is having little effect. After spending 300 million euros over 12 years, the EU program is still not operational. Three EU members are not implementing it. Auditors recently recommended its suspension.

The morality of this campaign is disturbing. WWF has made clear it aims to halt forestry around the world to limit further conversion of forest to produce food. The case is baseless.

Forestry is an important industry in many developing countries. Ample forest is available to accommodate commercial forestry, expand production of food crops and practice conservation. Yet WWF’s ecological mantra is that expanding farmland, like mining, depletes natural resources so fast they cannot be replenished. It contends this has to stop. The numbers are imagined. The grim reality is that most illegal land clearing is by the landless poor. The nasty, unspoken, inhuman message for developing countries which need to expand food production is ‘let them starve’.

### **The Labor Government let Australia get sucked in**

The Labor Government let Australia get sucked into this impractical, costly and inhumane strategy. Protectionists cheerfully swung in behind. Australia’s paper industry, lead by Kimberly Clark, saw this as a strategy to impede imports of cheaper paper imports from Asia. Its partner in arms is the CFMEU, which covers Kimberley Clark’s paper business. They

formed an alliance with the Greens, Greenpeace and WWF (and for good measure, IKEA and Bunnings) in this campaign.

Under Green and union pressure, the former Labor government introduced the Illegal Logging Prohibition Act. It ignored an assessment by the Centre for International Economics that the cost of compliance considerably exceeded the small value of illegal procured-timber imports, assuming there were any. There is no evidence there were.

Labor delayed submitting the all-important regulations to enact this law to Parliament until after the last session of Senate Estimates in its last year of office. Little wonder. Australian small timber and wood products businesses estimated the cost of complying with this nonsensical law at \$340 million dollars a year. Agriculture officials also secured a waiver from the then Finance Minister, Senator Wong, of the standing obligation to undertake a cost benefit analysis of the Act and related regulations.

For reasons never explained, Senator Colbeck, as the new Parliamentary Secretary for Forests, disregarded LNP party room decisions to alter the regulations and protected the Green and Labor Act. These regulations were never formally scrutinized.

The Greens regularly show how dopey people can be ensnared by green tape. For several years, the Green Building Council, goaded on by environmentalists, rated timber in buildings as environmentally unfriendly compared to concrete (everyone went along with this) until it was pointed out production of concrete created many more emissions of greenhouse gases than sustainably harvested timber. A properly managed forest can be a carbon sink. Environmentalists did not want to know that. State forestry authorities were supine enough to let that pass. This year the Green Building Council finally OK'd use of timber in large buildings.

Josh Frydenberg, then Parliamentary Secretary to the PM for Deregulation, shook the cage and finally secured agreement the Act and regulations would be reviewed by consultants. They were (and found unjustifiably onerous), but Senator Richard Colbeck sat on the report for nearly a year, until he was finally replaced by Senator Anne Ruston, Assistant Minister for Forestry and Water, who is now trying to clean up this absurd regulatory morass.

### **A Contender for Australia's Worst Law**

In October, 2013, *Quadrant* published an article by me on the Act – “**A Contender for Australia's Worst Law**”. While many agree it is (Gavin Griffith QC considered it unconstitutional), the Act is still law awaiting implementation. Here is the irony. This is not a large scale issue in the ordinary order of events. It will certainly not rate among the issues that will shape Australian politics in the next five months. There are much more important things on the table.

Yet even that assessment shows up the hole in the wall through which the Greens so effectively and consistently crawl. Until the mainstream parties take their responsibility to ensure laws and regulations are sound and resist those that aren't, the Greens will continue to use regulatory stealth to create laws and rules which will stymie growth and throttle industries they want to see brought down.

The line needs to be drawn in the sand with the Illegal Logging Prohibition Act and its regulations. If it is not, Coalition governments will continue to find themselves allowing environmental laws which restrict growth and perpetuate poverty, instead of serving as tools to deliver practical environmental outcomes.

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